



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Education
<b>Virginia Administrative Code (VAC) citation</b>	8 VAC 20-70
<b>Regulation title</b>	Regulations Governing Pupil Transportation
<b>Action title</b>	
<b>Date this document prepared</b>	December 1, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

These regulations were last revised in 2004. Clarifications and updates to provisions contained in these regulations need to be made due to state statutory changes and new federal requirements. In addition, the 2005 National School Transportation Specifications and Procedures are now available. These standards address such issues as school bus inspections, infants and toddlers, special education, and specially equipped school buses. These standards were reviewed as part of the revision process in order to incorporate changes, as appropriate.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Article VIII, §4, Constitution of Virginia; Code of Virginia §22.1-176; 22.1-177; 22.1-178; 22.1-181; and 22.1-186.

The scope of legal authority is defined by Article VIII, §4, Constitution of Virginia which vests in the Board of Education the general supervision of the public school system.

Section 22.1-16, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-16>, Code of Virginia, authorizes the Board to promulgate “such regulations as may be necessary to carry out its powers and duties....”

Section 22.1-177, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-177>, Code of Virginia, gives the Board general authority to make regulations relating to the construction, design, operation, equipment and color of public school buses and the authority to issue an order prohibiting the operation on public streets and highways of any public school bus which does not comply with such regulations.

Section 22.1-176, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-176>, and §22.1-186 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-186>, Code of Virginia, authorizes the Board to promulgate regulations relating to fees for school transportation.

Section 22.1-178 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-178>, Code of Virginia additionally sets forth requirements for school bus drivers and authorizes the Board to furnish forms to school divisions to obtain information from applicants for employment as school bus drivers as required in statute.”

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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The Regulations Governing Pupil Transportation need to be revised to address new state laws passed since 2004, as well as new federal requirements. Current state law does not require students to ride public school buses. The revision of these regulations will help to ensure the safety of children riding public school buses. Providing safe, free transportation to and from school for children in Virginia will reduce the need for parents to transport their children.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)*

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Substantive changes to the existing regulations include:

1. Definitions have been updated to conform to those in the 2005 National School Transportation Specifications and Procedures document.
2. Requirements for school activity buses are clarified.
3. Language has been included prohibiting driving more than thirteen hours in a twenty-four hour period per Section 46.2-812, Code of Virginia.
4. Changing the restrictions on standees on school bus.
5. Language has been included for safety instruction of grade 9 – 12 students who ride school buses.
6. Language has been included to change the maintenance inspection from 30 operating days or every 2,500 miles to every 45 calendar days.
7. Language has been included regarding the operational assessments conducted by the Department of Education.
8. Language has been included to change the review of routes from once a year to twice a year.
9. Language has been included on the use of non-sequential lighting system use at railroad crossings.
10. Language has been included on records retention for pupil transportation records.
11. Language has been included providing further explanation of training and including new transportation directors in this training.
12. Language has been included for instructors to meet the requirements of a school bus driver and to have at least two years experience.
13. Language has been included providing further explanation of what should be covered in annual in-service training. The times for in-service training have been updated.
14. Clarification to the pre-trip safety inspection requirement and updates to include the procedure as outlined in the Preventive Maintenance Manual.
15. Eliminate reporting of minor bus crashes by divisions.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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The Regulations Governing Pupil Transportation is being revised to improve the safety and efficiency of children riding public school buses.

The Code of Virginia, Section 46.2-812, requires that no person shall drive any motor vehicle on the highways of the Commonwealth for more than thirteen hours in any period of twenty-four

hours or for a period which, when added to the time such person may have driven in any other state, would make an aggregate of more than thirteen hours in any twenty-four-hour period.

Changes to instruction of directors, drivers, and students are included. Requiring new transportation directors to attend the “training for trainers” sessions will provide them a good overall view of what is required of bus drivers. Training for students in grades 9-12 will ensure that students who may not always ride a bus know the rules for riding a bus and also know where the emergency exists are located. Topics for training and in-service are included to assist the school divisions in providing appropriate training in areas of concern.

Requiring instructors to meet the requirements of a school bus driver and have at least two years of experience will ensure the instructors know what is required of a school bus driver.

The use of the non-sequential lighting system is different from the lighting system on older buses, in particular, at railroad crossings. This requirement would be covered in training sessions each year.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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No changes to the regulations are more restrictive than applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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No specific locality will be affected by the proposed regulations. All school divisions are required to follow the regulations.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

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In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking

information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, e-mail or fax to June Eanes, Director of Support Services, P. O. Box 2120, Richmond, VA 23218-2120, or [June.Eanes@doe.virginia.gov](mailto:June.Eanes@doe.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	Minimal cost to implement the regulations. General funds would be used for travel for operational fleet assessments.
<b>Projected cost of the regulation on localities</b>	Minimal cost on localities. There may be cost for new directors to receive training, reviewing routes, and maintenance of vehicles.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Local school divisions would be affected.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	All school divisions would be affected by the changes.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	Local school divisions will need to continue to maintain maintenance records for buses and training records for drivers.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The alternatives considered were:

Not to update these regulations. However, some of the current regulations need additional clarification on wording. This will assist school divisions in understanding the regulations and providing safe transportation for students in Virginia.

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

No alternative regulatory methods were considered.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Montgomery County School Bus Driver	I agree that regulations need to be updated on a regular basis. My comment has to do with specifications on new school buses. The item I want to talk about is cruise control. I see that cruise is an option for activity buses, but not for school buses. I believe this should be added as an option on school buses also. Most school divisions in Virginia transport students to activities on school buses that are yellow in color (not the any color but yellow activity bus) the only difference between the buses is the color. I believe that it is just as safe for me to transport students to the same location, on the same highways with a yellow bus that has cruise control as it is	This item falls under specifications. Public comment period for specifications was held June 19-July 19, 2008.

	<p>with an activity bus. We have professional drivers driving school buses all over the state of Virginia, and they use good judgment practices every day. I feel sure knowing when and how to properly use the cruise control would not be different.</p> <p>This needs to be an option on a yellow school bus that is only allowed to be used for activity trips, not regular routes. Also the last word in any school division about being able to have this item on a bus could be left up to the school board and or transportation director. I ask you to please consider this.</p>	
<p>Accomack County School Bus Driver</p>	<p>Updating pupil transportation regulations on a regular basis is crucial in order to provide the safest and most cost effective means of transporting students. With driver shortages, budget cuts, and an increasing interest in the safety of our bus riders, new technologies are needed to keep the wheels rolling. Without regular/yearly updates to regulations, many proven new technologies cannot be implemented and therefore cannot serve the purpose they were intended, increased safety and lower costs.</p> <p>I would also like to comment on the addition of cruise control on yellow buses used for activities and long trips. We as drivers are professionals and take our jobs seriously. We have the training needed to know when to use or not use various systems on our buses. The addition of Cruise Control on standard buses would lower the risk of driver fatigue and muscle cramps during long trips across the Commonwealth and beyond. The use of dedicated non-yellow activity buses is not an option for the many poorer districts in Virginia. Yellow buses are being driven on long trips far more than dedicated activity buses and need to be equipped with this feature but have it deactivated due to the regulations. Over the years regulations have been made in order to make</p>	<p>This item falls under specifications. Public comment period for specifications was held June 19-July 19, 2008.</p>

	<p>children on buses safer; providing drivers with the tools we need makes everyone safer.</p>	
<p>Roanoke County School Bus Driver</p>	<p>I would like to comment on behalf of the professional school bus drivers who use school buses (yellow in color) to transport students during after school activities. As previously mentioned we are another public school district who does not own activity buses in any other color then yellow to transport students. Cruise control systems have been around for many years, they have gone through many technological enhancements that improve driver comfort and convenience. In addition they have become a standard vehicle feature. The primary purpose of cruise control when activated is that it enables you to maintain a constant speed without keeping your foot on the accelerator. This can help reduce driver fatigue during long trips. It also makes the driver look at the long view of the road rather than reacting to every change in the traffic around them.</p> <p>I personally run long activity trips away from our school and depend on this feature to allow me to maintain a constant speed on the interstate. This feature has prevented many discomforting cramps in my legs from hold accelerator in a constant position for extended periods of time. Bus drivers, unlike truck drivers, don't spend nearly the amount of time behind the wheel that causes the fatigue that a truck driver would normally experience after many hours on the road. Due to the small amount of time a school bus driver spends on the road, they are not subject to the same levels of fatigue and stress, and are able to retain a much higher level of awareness while driving, even while driving with cruise control enabled.</p> <p>Professional school bus drivers are some the most qualified individuals to transport children safely to school. We are forced to attend two safety meetings a year and are</p>	<p>This item falls under specifications. Public comment period for specifications was held June 19-July 19, 2008.</p>

	<p>forced to go for yearly physicals. We are watched like hawks for the smallest mistakes we may make. We must drive as safe as possible at all times, both defensively and offensively. If we neglect to drive with this high level of caution, someone will call the transportation office for the smallest error made. As mentioned in a few previous letters, I agree regulations need to be updated on a regular basis, but this particular regulation needs to be reviewed and written so that cruise control should solely be used for activity trips, regardless of the color of the bus. I think the decision should be left up to school district and the transportation superintendent's discretion.</p>	
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**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

Neither current law nor the pupil transportation regulations require Virginia students to ride public school buses. However, to the extent that students ride public school buses, these regulations will provide standards and requirements to help ensure the safety of children.

Several changes will increase the safety of school buses, thus further ensuring the safety of children being transported to and from public schools and promoting family well-being. There is no negative impact on the welfare of the family.

The provision of safe, free transportation to and from public school can provide economic assistance to parents by eliminating the need for parents to transport their children to and from school.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8VAC20-70-10		Definitions	Update the definitions section to conform to the definitions in the 2005 National School Bus Specifications and Procedures as a uniform national standard.
	8VAC20-70-31	N/A	Driving more than thirteen hours in twenty-four hour period. Code of Virginia, Section 46.2-812 requires that no person shall operate any motor vehicle more than thirteen hours in any period of twenty-four hours. Activity trips may cause a school bus driver to drive more than 13 hours in a given 24 hour period. This has been added as a safety issue for both driver and students.
8VAC20-70-40		Seating – During the first 30 instructional days of the school year standees may be permitted for short distances in the aisle back of the driver’s seat.	“Pupils may not be permitted to stand except under unforeseen temporary emergency conditions and short distances as identified by the local school board.” The reason for this change is a safety issue for students. The possibility of injury to students standing is greater than if they are seated properly in the seats.
8VAC20-70-100			Delete sentence “See Federal Motor Vehicle Safety Standards No. 209 and 210.”
8VAC20-70-110		No requirement	“Students in grades 9-12 shall receive additional training on the rules for motorists when approaching a stopped school bus and on safe following distances when operating a personal vehicle.” Adding this language will require students who may be driving to school to know the laws about approaching stopped school buses and the safe following distances when following a school bus.
8VAC20-70-130		Maintenance inspection – “All school buses and school activity vehicles used to transport public school pupils to and from school and school activity events shall be inspected and maintained by competent mechanics immediately before being	Change language to read: “All school buses and school activity vehicles and school vehicles used to transport public school pupils to and from school and school activity events shall undergo a Level 2 maintenance inspection as prescribed in the <u>Preventive Maintenance Manual for Virginia School Buses</u> by competent mechanics before being used for each new school year, and a Level 1 inspection at least once every 45 calendar

		used in the fall and at least once every 30 operating days or every 2,500 miles traveled.”	<p>days after the start of the new school year.”</p> <p>This language is being changed to clarify when maintenance should be performed on all buses and vehicles used to transport students to and from school and related activities.</p> <p>Add sentence “School division compliance with the foregoing maintenance inspection requirement shall be subject to verification by the Department of Education.”</p> <p>This sentence is being added to clarify the authority of the Department of Education.</p>
8VAC20-70-130		No requirement	<p>Add language: “Subject to funds being available, the Department of Education shall conduct random operational assessments during the school year of school divisions’ pupil transportation operations to ensure statutes, regulations, and specifications are being met. The Department of Education shall establish procedures for conducting the random operational assessments.”</p> <p>This language is being added to clarify the Department of Education’s role to review maintenance records, training records, etc. to ensure school divisions are meeting the regulation requirements.</p>
8VAC20-70-140		School divisions are required to report all crashes/incidents to the Department of Education through a web based system.	<p>Change the first sentence to delete “vehicle” and “incidents”. This change is being made for clarity.</p> <p>Delete the sentence “An incident occurs when property damage is \$999 or less and there are not injured individuals.”</p> <p>School divisions will report crashes when property damage is \$1,000 or more or when persons are injured. They will not have to report incidents.</p> <p>The Department of Education will publish a report on its web site annually of the number of crashes involving school buses, pupils, and personnel who ride school or activity buses. This information will be available to the public.</p>
8VAC20-70-150			Clarification of language by adding “the time of drop off at home in the afternoon” and schedule shall be “secured when the bus is unattended.”
8VAC20-70-160		Review of routes – “School bus routes, school sites, and safety of pupils at designated school bus stops shall be reviewed at least once each year.	<p>Change language to read: “School bus routes, school sites, and safety of pupils at designated school bus stops shall be reviewed at least twice a year, once each semester.”</p> <p>Change “maximum” to “the most efficient” In the second sentence.</p> <p>This language is being changed to ensure the safety of pupils.</p>

8VAC20-70-170		Railway crossings – “School buses shall stop, as required by law, at railway grade crossings. The 4-way hazard lights shall be activated when approaching the railway grade crossing and deactivated before crossing the track.”	Change the language to read: “School buses shall stop, as required by law, at railway grade crossings. School buses equipped with a non-sequential lighting system must have these lighting systems deactivated when approaching a railroad grade crossing and the 4-way hazard lights shall be activated and shall be deactivated before crossing the track.” This language is being changed because of the new requirement for non-sequential lighting systems on school buses. The red lights automatically activate when the door is opened. Law requires that at railroad crossings only the hazard lights are activated. Change the language of the last sentence for clarity.
8VAC20-70-180			Change in language for reports to be submitted to designated school officials rather than the principals.
8VAC20-70-200			Clarification of language.
8VAC20-70-220			Change sentence to read: “No object shall be placed on any bus carrying passengers that will restrict the access to any exit; restrict the freedom of motion of the driver for proper operation of the vehicle, or where displacement of such objects may result in personal injury to passengers.” Clarification of language concerning objects placed on the bus.
8VAC20-70-230			Clarification of language on vehicles used “primarily” transport students to and from school.
	8VAC20-70-271	No requirement	Add the following language: “Records Retention. School division documents related to pupil transportation shall be retained in accordance with local policy and guidelines from the Virginia State Library.” This language is being added to clarify the requirements for retaining records.
8VAC20-70-280			Removal of code citations that don’t relate to section.
8VAC20-70-300			Clarification of documents that are to be furnished annually.
8VAC20-70-310			Section repealed and moved to 8VAC20-70-435.
8VAC 20-70-350		Training – “Drivers of Type D buses must complete eight additional hours of training behind the wheel.”	Delete this sentence and change language to read: “All drivers shall receive training in the operation of buses representative of the type in the school division in which they will be employed and in the transportation of students with special needs. Classroom

			<p>instruction means training provided by a qualified driver instructor through lectures, demonstrations, audio-visual presentations, computer-based instruction, driving simulation devices, or similar means. Instruction occurring outside a classroom is included if it does not involve actual operation of a school bus and its components by the student. Behind-the-wheel training does not include time spent riding in a school bus or observing operation of a school bus when the student is not in control of the vehicle.”</p> <p>The language is being changed to clarify the requirements of training.</p>
8VAC20-70-350		No requirement	<p>Add the following language: “New transportation directors/supervisors employed by school divisions shall complete the “Train the Trainer” class conducted by the Department of Education within a year after being employed in this position.”</p> <p>This language is being added to ensure that directors understand the responsibilities required of school bus drivers. This will also give them a good overview of the laws and regulations governing pupil transportation.</p>
	8VAC20-70-359	No requirement	<p>Add the following language: “Requirements for School Bus Driver Instructors – Instructors must meet the requirements of a school bus driver and have at least 2 years experience operating a Class B type vehicle.”</p> <p>This language is being added to ensure that trainers have some experience on operating school buses.</p>
8VAC20-70-360		<p>In-service training: “In-service training (at least two hours before opening of schools and at least two hours during the second half of the school year).....”</p> <p>No requirement</p>	<p>Change the language: “In-service training (before opening of schools and during the second half of the school year).....”</p> <p>Add language: “In-service training shall include, but not limited to, the following topics: Basic motor vehicle laws, related administrative codes, pre-trip inspection procedures, student discipline and conduct, drug and alcohol testing procedures and policies, fuel conservation, safety, emergency procedures and student information and confidentiality and local policies and procedures as required by the division’s transportation department. A copy of the agenda for each in-service training event shall be on file.”</p> <p>This language will clarify what is required in</p>

			in-service training.
8VAC20-70-370			Clarification of wording.
8VAC20-70-380		Pre-trip safety inspection: "The drivers of school and activity buses shall perform a daily pre-trip safety inspection of the vehicle prior to transporting children. The items checked and recorded shall be at least equal to the pre-trip inspection procedure as prescribed by the Department of Education."	Change the language to read: "Prior to the initial transporting of children each day, the drivers of school and activity buses shall perform a daily pre-trip safety inspection of the vehicle. The items checked and recorded shall be at least equal to the pre-trip inspection procedure in the Preventive Maintenance Manual for Virginia School Buses issued by the Department of Education." This language is being changed to clarify the requirement.
8VAC20-70-420			Clarification added as to when the certification expires.
8VAC20-70-430		Current requirement only included school buses and activity buses.	Some students are transported in cars – this is the reason for the addition of "other vehicles."
	8VAC20-70-435	No requirement	Add language to clarify what documents should be included in an employee's file.
8VAC20-70-450			Clarification of wording in this section.
8VAC20-70-460			Clarification of wording in this section.
8VAC20-70-480			Clarification of wording in this section. This is covered in specifications.
8VAC20-70-490			Clarification of wording to be buses vs. vehicles.
8VAC20-70-510			Delete item D as this is covered in specifications.
8VAC20-70-525			Clarification of wording in a. to show Code section instead of including the speed limits to follow. Delete item c as this is covered in specifications. Delete item 2 as this is covered in specifications.